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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,907	11/03/2003	Martin Moeller	2784	4380
7590	07/05/2006		EXAMINER	
STRIKER, STRIKER & STENBY 103 East Neck Road Huntington, NY 11743			MERCADO, JULIAN A	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,907	MOELLER ET AL.	
	Examiner	Art Unit	
	Julian Mercado	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Remarks

This Office action is responsive to applicant's status request submitted on October 27, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed semi-permeable membrane is disclosed as a plastic membrane, while the specification is found silent on the chemical identity of the membrane itself. As such, the claimed "semi-permeable membrane" is precluded from being read in light of the specification. The term "plastic" is considered an omnibus term for describing any one of a myriad of thermoplastic and thermosetting polymers.

For purposes of examination, the term "plastic" has been given its broadest reasonable interpretation in a manner consistent with the above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art.

The examiner notes pages 2-3 of the specification which states that in the field of fuel cell technology “[m]etal membranes have already been used to remove, at least in part, the undesirable gases, such as CO and CO₂, produced in the reforming process.” (specific reference to page 3 line 19 et seq.) Thus, the prior art membrane unit is considered readable on the claimed fuel cell system having a semi-permeable membrane insofar as this membrane unit as recited in the claims does not preclude a metal membrane. Of note, claims 2-3 which further define a plastic membrane are excluded from this ground of rejection.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Baker et al. (U.S. Pat. 4,857,080).

The teachings of the admitted prior art are discussed above.

Baker et al. teaches a plastic membrane which is semi-permeable to hydrogen. The skilled artisan would find obvious to employ a plastic membrane, albeit a composite plastic membrane, for reasons such as increasing porosity selectivity for hydrogen. See col. 13 line 14 et seq.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Leboe et al. (U.S. Pat. 6,893,755 B2).

The teachings of the admitted prior art are discussed above.

Leboe et al. teaches a feedback device [26] which also contains a membrane unit. See col. 6 line 54 et seq. The skilled artisan would find obvious to employ a feedback device in order to ensure a preferred target set point for the hydrogen pressure. See col. 8 line 27 et seq.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Pat. 5,393,325 to Edlund is cited to teach known hydrogen-permeable membranes. See the Background of the Invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.




PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER